

COUNCIL COMMUNICATION

Meeting Date: 01/09/2025

Item Title: Sponsorship Ordinance
Department: Legal
Presented by: Adam Tucker, City Attorney

Summary

Ordinance to establish the parameters for the Sports Authority as it develops its marketing plan for advertising, sponsorship, and name rights agreements.

Background Information

The Sports Authority is contracting with a marketing firm to begin secure sponsorship revenue at the City's Sport Facilities. Establishing a policy by ordinance of the types of sponsorship that will be acceptable is an important part of the process. This policy will guide the Authority and the consultant in the development of the marketing plan.

The draft revenue agreement with Donegal Associates is also attached as information.

Council Priorities Served

Responsible budgeting

Fiscal responsibility is enhanced through the creation of supplement revenue through appropriate sponsorship agreements that will offset a portion of the operating and capital expenses associated with the Parks and Recreation Department's facilities.

Attachments:

Ordinance 25-O-01 Ordinance establishing parameters for advertising, sponsorships, and naming rights.
Murfreesboro Sports Authority Draft Revenue Agreement with Donegal Associates

ORDINANCE 25-O-01 amending the Murfreesboro City Code, Chapter 21.5, Parks and Recreation, Article I. Murfreesboro Sports Authority, Section 21.5-1 establishing permission to secure advertising, sponsorship and naming rights for Parks and Recreation facilities and programs.

WHEREAS, City Council has created the Murfreesboro Sports Authority to promote, maintain, improve, and further develop recreational facilities within the City; and

WHEREAS, the Authority will fund the operation and improvement of Parks and Recreation Department facilities through marketing with advertising, sponsorship and naming rights; and

WHEREAS, it is beneficial for the Authority to be guided by ordinance on the types of advertising, sponsorship, and naming rights that it will seek to secure.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. Chapter 21.5, Parks and Recreation, of Murfreesboro City Code is hereby amended by adding the following Article 1 and Section 21.5-1, currently marked as “Reserved”:

ARTICLE I. Murfreesboro Sports Authority

Section 21.5-1 Advertising, sponsorships, and naming rights.

- (A) The Murfreesboro Sports Authority may negotiate and enter into advertising, sponsorship, and naming-rights agreements for the purpose of providing financial support for the City’s parks and recreation facilities and programs.
- (B) All advertising at parks and recreation facilities is restricted to commercial speech. No advertising is permitted at any City park or recreation facility unless the advertising is done pursuant to an agreement or permit in accordance with Parks and Recreation Department rules and regulations.
- (C) Advertising, sponsorship, or naming rights agreements shall not advertise or otherwise promote the sale, distribution, use, or possession of alcohol, tobacco products, illegal drugs, or material or entertainment deemed harmful to minors under applicable federal or state law. Upon the recommendation of the Parks and Recreation Department, the Parks and Recreation Commission may impose additional subject-matter restrictions on advertising, sponsorship, and naming-rights agreements consistent with applicable law and the fact that parks and recreation facilities are used by citizens of all ages, including families and young children.
- (D) Revenue generated from advertising, sponsorship, and naming-rights agreements entered into under this section shall, after provision for the expenses of the Sports Authority, be applied to the Parks and Recreation Department operating budget.
- (E) Nothing in this section shall be construed to restrict temporary political, ideological, and other non-commercial speech at any City park or recreation, although such speech may be subject to reasonable time, place, and manner restrictions imposed by state law or by other City ordinances or policies.

SECTION 2. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

ATTEST:

Erin Tucker
City Recorder

Shane McFarland, Mayor

APPROVED AS TO FORM:

Signed by:
Adam F. Tucker

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Adam F. Tucker
City Attorney

SEAL

SPONSORSHIP REVENUE AGREEMENT

This Sponsorship Revenue Agreement (the “Agreement”) is executed and made effective on the 1st day of January 2025, by and between **Murfreesboro Sports Authority**, a component unit of the City of Murfreesboro (the “Authority”) and **Donegal Associates**, a sole proprietorship of Mike Humes, (“Consultant”), for the purpose of memorializing the understandings, intents and responsibilities of the Parties relative to providing Marketing and Financial Services to the Murfreesboro Sports Authority (the “Authority”)

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, Authority and Consultant agree as follows:

SECTION ONE – TERM OF ENGAGEMENT

1.1 Term of Engagement.

January 1, 2025 through December 31, 2026

SECTION TWO – SERVICES OF CONSULTANT

2.1 Professional Services. During the Initial Term, Consultant agrees to provide the Authority the professional services listed on Exhibit A hereto (the “Services”) to the Project under the direction of The Authority.

SECTION THREE – CONSULTANT EXPENSES

3.1 Expenses. Consultant is an independent Contractor to Owner, and as such shall perform the Services using its own personnel, equipment, means, methods and devices. The Authority is not responsible to pay for and/or reimburse Consultant for any business expenses associated with Consultant's work on the Project pursuant to this Agreement unless prior written approval has been granted by the Authority on any such applicable expenses (“Pre-Approved Expenses”).

SECTION FOUR – CONSULTANT’S RIGHTS TO COMMERCE

4.1 Consultant’s Rights. Consultant shall have the right to engage in other business ventures not in conflict with the Services provided hereunder.

SECTION FIVE – COMPENSATION

5.1 Compensation. Consultant shall receive the following compensation for the Services to be performed as described in Article 2 to this Agreement:

- (a) **Fixed Monthly Fee.** Consultant shall be paid a monthly fixed fee of \$6,000.00.
- (b) **Commission.** Commissions shall be paid monthly over the term of each sponsorship agreement secured by Consultant within 30 days of receipt of funds by the Authority in accordance with the following schedule:

- Sponsorship Agreements creating Gross Revenue of up to \$500,000: 5% of funds received.
- Sponsorship Agreements creating Gross Revenue of \$500,001 to \$1,000,000: 7.5% of funds received.
- Sponsorship Agreements creating Gross Revenue of more than \$1,000,000: 10% of funds received.

5.2 Terms and Conditions of Commissions Payments

- (a) For purposes of this Agreement, “Gross Revenue” means revenue actually received by the Authority, on a cash basis, from the sales activity of Consultant derived from sponsor prospects who sign definitive agreements with the Authority (“Definitive Sponsor/User Agreements”).
- (b) For all contemplated engagements, Consultant is expected to participate in meetings and/or the creation of sponsorship proposals.
- (c) Consultant will be paid his earned commission on all multi-year agreements as they create monthly Gross Revenue, notwithstanding the expiration or termination of this Agreement.

SECTION SIX – INDEPENDENT CONTRACTOR STATUS OF CONSULTANT

6.1 Consultant Not an Agent or Employee of the Authority or the City. The Authority and the City shall have no liability to the Consultant other than to pay the compensation as set forth in Section 5 and the Pre-Approved Expenses in Section 3.1. It is understood and agreed that Consultant is acting as an Independent Contractor in the performance of Services hereunder. Nothing herein shall be deemed to create an employment or agency relationship between Consultant and the Authority or the City. This Agreement does not grant Consultant any right or authority to, and Consultant shall not, make any statements, representations, or other commitments on behalf of the Authority or the City without their prior, written approval. Nothing in this Agreement creates any partnership or joint venture. As between each other, each Party is fully responsible for all persons and entities it employs or retains.

6.2 Consultant Not Eligible to Receive Any Benefits. Neither Consultant nor Consultant’s employees, crew, or subcontractors shall be entitled to participate in or to receive any benefits from any benefit or welfare plans of the City or any City-affiliated entity, including, for example and without limitation, medical, dental, vision, life insurance, accidental death and dismemberment insurance, pension, 401k, and other insurance or retirement plans, if any, as well as coverage under the City’s or City-affiliated entity’s workers’ compensation program. The Authority nor City shall have any obligation whatsoever to compensate Consultant or any of Consultant’s employees or subcontractors on account of any damages or injuries which Consultant or Consultant’s employees or subcontractors may sustain as a result or in the course of the performance of the Services hereunder

6.3 Consultant Responsible as an Employer. Consultant shall have all responsibilities of an independent employer, including, without limitation, sole responsibility for payment of compensation to all Consultant employees (except with respect to those employees with loan-out corporations), and including those arising out of any applicable legal requirements relating to worker's compensation, insurance, social security taxes, tax withholding (including, without limitation, social security, federal and state taxes), federal and state unemployment insurance and similar taxes and all other assessments, taxes, contributions, sums payable, pension, health and welfare plans under any legal requirements or any applicable collective bargaining agreements with respect to Consultant and/or Consultant's employees and subcontractors as a result of or in connection with the Services performed by Consultant hereunder. Consultant agrees to file all necessary returns and reports with respect to any of the foregoing.

SECTION SEVEN –TERMINATION

7.1 Termination by the Authority. The Authority shall have the right to terminate this Agreement, during the Term upon (i) a material default by Consultant, if applicable, in performance of any of the provisions of this Agreement, which default is not cured within ten days following written notice of such default to Consultant; (ii) if any of the representations or warranties made by Consultant in this Agreement shall be untrue or inaccurate in any material respect; (iii) City Council properly determines that it will not appropriate funds in the City's budget to the Authority as required to pay the Fixed Monthly Fee required under this Agreement.

7.2 Termination by Consultant. Consultant shall have the right to terminate this Agreement, during the Term upon (i) a material default by City in performance of any of the provisions of this Agreement, which default is not cured within ten (10) days following written notice of such default to City; (ii) if any of the representations or warranties made by City in this Agreement shall be untrue or inaccurate in any material respect; or (iii) the City Council fails to appropriate funds to the Authority necessary to pay the Fixed Monthly Fee required by this Agreement.

7.3 Effect of Termination. Termination of this Agreement for any reason provided herein shall not relieve either Party from liabilities rightfully accrued or payments properly earned through the date of termination. For clarity, Consultant's right to Commissions hereunder for any Definitive Sponsor/User Agreements entered into prior to any expiration or termination of this Agreement will continue during the then-existing term of any corresponding multi-year sponsorship/user agreement and the City is obligated to appropriate to the Authority the allocation of funds from Gross Revenues as necessary to fulfill this obligation. This Section 7.3 will survive and continue to be binding after the expiration or termination of this Agreement.

SECTION EIGHT – CONFIDENTIALITY AND WORK PRODUCTS

8.1 Non-Disclosure of Confidential and Proprietary Information. and customers.

Consultant and the Authority agree not to disclose or use, other than for the benefit of and with the authorization of the other, any Confidential Information, trade names, trademarks

(including the marks of the City), or other intellectual property rights of Consultant, the Authority, the City, or their clients, whether disclosed or used directly or indirectly by Consultant, the Authority, the City, during or at any time after termination of this Agreement for any reason; except that each, shall not be prohibited from disclosing that specific and limited portion of Confidential Information that, (i) with respect to Consultant, is legally compelled to disclose by order of a court of competent jurisdiction, or (ii) with respect to the Authority and the City, is legally compelled to disclosed either by statute or order of a court of competent jurisdiction, so long as (a) each first gives the other prior and prompt written notice of such a disclosure or court order so that the other has an opportunity to seek a protective order or otherwise contest and dispute such order, and (b) each discloses only that portion of Confidential Information that is required to be revealed by law.

- 8.2 Return of Confidential Information.** Upon termination or expiration of this Agreement, for any reason, or at the request of the Authority or the City at any time, Consultant shall immediately return to the Authority or the City all Confidential Information, records, documents, software, disks, and other written, printed, photographic or physical materials of any type in Consultant's possession or control that belong to or pertain to the Authority or the City. Consultant shall not retain any copies or extracts, including handwritten notes, of any Confidential Information.

SECTION NINE – ARBITRATION

- 9.1 Arbitration.** Any dispute, controversy or question of interpretation arising under, out of, in connection with or in relation to this Agreement, or any amendments hereof, or any breach or default hereunder, shall be submitted to, and determined and settled by, arbitration in Rutherford County, Tennessee, in accordance with the then-effective and applicable rules of the American Arbitration Association. Any award rendered shall be final and binding on both the Authority and the Consultant, and judgment may be entered thereon in any court having jurisdiction thereof.

SECTION TEN – ASSIGNMENT

- 10.1 Assignment.** This Agreement and the rights hereunder shall not be assignable by the Consultant without the prior written permission of the Authority.

SECTION ELEVEN – HOLD HARMLESS

- 11.1 Hold Harmless.** To the extent permitted by Tennessee law, the Authority shall indemnify and hold Consultant harmless from all claims, demands, liabilities and obligations to third persons from any loss, cost or expense, including but not limited to, attorney's fees and court costs, resulting from any act or omission of the Authority or any of its agents, contractors, servants, employees or licensees, provided that Consultant shall be solely responsible for his willful acts or omissions under this Agreement. Consultant shall indemnify and hold the Authority harmless from any such loss, cost, claim expense resulting from any act or omission of Consultant, its agents, contractors, servants,

employees or licensees other than City's willful acts or omissions under this Agreement. The provisions of this Article 11.1 shall survive any termination of this Agreement.

SECTION TWELVE – NOTICES

12.1 Notices. Any notice under this Agreement shall be in writing and delivered personally or sent by certified mail, return receipt requested, to the respective addresses of the Parties hereto listed below:

If to Consultant: Mike Humes, President & Managing Director
Donegal Associates
572 Center Drive
Memphis, Tennessee 38112

If to Authority: Murfreesboro Sports Authority
c/o City Manager
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

Or to such other address as either Party may from time to time designate in writing to each other.

SECTION THIRTEEN – AGREEMENT CONSTRUCTION

13.1 Construction. This Agreement shall be construed and enforced in accordance with the laws and decisions of the State of Tennessee.

SECTION FOURTEEN – MISCELLANEOUS PROVISIONS

14.1 Entire Agreement. This Agreement contains the entire agreement between the Parties and supersedes any prior oral or written understanding and agreements. This Agreement can be modified only by a written document signed by both Parties.

14.2 Severability. Each provision of this Agreement is separate. If any one or more provisions of this Agreement are adjudged or declared to be invalid or unenforceable, the Agreement shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of this Agreement.

14.3 Waiver of Breach. The failure of a Party to seek redress for breach of any provision of this Agreement, or to insist upon the strict performance of any term, covenant or condition of this Agreement, shall not operate or be construed as a waiver of any subsequent breach by either Party.

14.4 Wording. Whenever the singular of a word is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

14.5 Article Headings. The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision thereof.

14.6 Binding Agreement. Each Party hereto represents that it has the full right and power to enter into this Agreement and perform all obligations to be performed by it hereunder. Unless otherwise provided herein, the terms and conditions of this Agreement shall be binding upon and inure to the benefit of, and shall be enforceable by, the Parties and their respected heirs, representatives, successors, subsidiaries, affiliates and permitted assigns, if any.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective authorized officers or representatives as of the day, month and year written below.

DONEGAL ASSOCIATES

By: _____

Printed Name: Mike Humes

Title: President and Managing Director

Date: _____

MURFREESBORO SPORTS AUTHORITY

By: _____

Printed Name: Paul Latture

Title: Chair

Date: _____